

NOTICE OF DECISION

APPENDIX F

LICENSING SUB-COMMITTEE – 23 JULY 2015

LICENSING ACT 2003: DEE DEE'S, 77 HERNE HILL, LONDON SE24 9NE

1. Decision

That the council's licensing sub-committee, having had regard to the application made under Section 51 of the Licensing Act 2003 by an other person for a review of the premises licence issued in respect of the premises known as Dee Dee's, 77 Herne Hill, London SE24 9NE and having had regard also to all other relevant representations has decided that the following are necessary for the promotion of the licensing objectives:

- a) That the licence shall be suspended for a period of four weeks.
- b) That live music shall be excluded from the scope of the licence and that Section 177A of the Licensing Act 2003 does not apply.
- c) That the conditions of the licence shall be modified as follows:
 - 1) That a sound limiting device shall be installed, set and maintained, to ensure the maximum levels of volume and bass of music, song or speech from licensed entertainment permitted by the amplification system, does not cause a public nuisance in the vicinity of the premises or intrude inside the nearest or most exposed noise sensitive premises.
 - 2) That acoustic seals, brushes and self closers (in accordance with BS 6459 Pt.1 1984) shall be installed to (specified) door/fire doors.
 - 3) That self closers (in accordance with BS 6459 Pt.1 1984) shall be installed to the gate.
 - 4) That acoustic, double or secondary glazing shall be installed to (specified) glazed areas to minimise sound escape from the premises.
 - 5) That the premises shall be adequately cooled to allow doors and windows to remain closed during licensed entertainment.
 - 6) That sound insulation of an adequate specification shall be installed to any shared walls/floors/ceilings to ensure that noise from the operation of the premises does not cause any intrusion in neighbouring property (Note – specification – 100mm polystyrene, 150mm acoustic rockwool and marine plywood).
 - 7) That all audio and musical equipment used in the premises, permitted under the Licensing Act 2003 or the Live Music Act 2012, shall be played through the installed sound limiting device.
 - 8) That all speakers for the broadcast of sound within the premises shall be isolated from the structure of the premises by anti-vibration mountings or mats.

- 9) That during licensed entertainment on the premises, permitted under the Licensing act 2003 or the Live Music Act 2012, all doors and windows shall remain closed (except for access or egress).
- 10) That amplified music, song or speech shall not be broadcast in external areas at any time.
- 11) That there shall be no drinks permitted outside on the frontage/terrace/in the garden after 22.00.
- 12) That there shall be no more than five persons permitted outside to smoke only, on the frontage/terrace/in the garden after 22.00.
- 13) That external waste handling, collections, deliveries and the cleaning of external areas shall only occur between the hours of 08.00 and 20.00.
- 14) That clearly legible signage shall be prominently displayed at all patron exits, where it can be easily seen and read, requesting that patrons leave the premises in a quiet and orderly manner that is respectful to neighbours.
- 15) That the details of a local taxi company shall be kept at the premises and shall be provided to customers on request. If staff at the premises order a taxi for a customer they shall request that the taxi controller instructs the taxi driver not to sound their vehicle horn on arrival but approach a staff member and let them know that they have arrived.
- 16) That the premises licence holder shall display a telephone number for local residents to contact management of the premises as and when necessary.
- 17) That all complaints shall be logged in an incident book along with any corrective action taken.
- 18) That the licensee shall ensure all staff working at the premises are trained on the conditions of the licence with particular regard to noise control and patron management. The records of all such training shall be kept at the premises and be made available to council officer or the police on request.

2 **Reasons**

The reasons for this decision are as follows:

The licensing sub-committee heard from the other person, the applicant for the review who advised that he had lived above the premises for approximately one year. He submitted the review on the grounds of all four of the licensing objectives and stated that the premises were operating as a club, they regularly held party type events which were not appropriate for a residential area. He advised that the premises often played music beyond the terminal hour and that they had regularly flaunted the licensing conditions. In particular, on Mondays and Tuesdays the noise reverberated up the walls and into his home. All attempts to discuss the issues with the management of the premises had been futile and he was unable to relax in his own home.

The licensing sub-committee heard from the environmental protection officer, supporting the review who advised that there had been concerns regarding noise nuisance from the premises for some time. However a statutory noise nuisance had not been witnessed until February 2015. The officer advised that she had been also on the cusp of submitting a review of the premises licence.

They advised that the premises licence holder had not taken the detailed advice of the environmental protection team in relation to ways to prevent noise nuisance from emanating from the premises.

The officer advised that prior to the meeting they had spoken to the premises licence holder and their representative and had agreed that live music would be removed from the scope of the licence and that the outside terrace would not be used after 22.00. A number of other conditions were also agreed.

The licensing sub-committee heard from the planning officer supporting the review who advised that the premises were causing a public nuisance by not adhering to their planning conditions. The planning conditions were intended to protect residential amenity which overlaps with public nuisance as an environmental concern. The location of the applicant's home means that they are particularly affected by the operation of the premises.

They further advised that the premises licence holder had obtained temporary event notices, the hours of which breached the permitted hours as per the planning permission. At one time or another, all of the planning conditions have been breached or not complied with. The premises licence holder has been advised of this non-compliance and that this was a live enforcement case.

The licensing sub-committee noted the written representations from five other persons supporting the review. The sub-committee heard from the representative of the Herne Hill Society. They acknowledged that the premises licence holder had agreed to refrain from playing live music but still had concerns of the significant noise caused by speech, laughter and applause throughout the building. They also submitted that there had been a number of breaches of licensing and planning conditions and questioned the approach of the management and their failure to ensure compliance. Whilst the licensing sub-committee could modify the conditions of the licence there was no assurance that the conditions would be complied with.

The licensing sub-committee noted the written representations from other persons supporting the premises who were not in attendance.

The licensing sub-committee heard from the representatives from the premises who, in spite of the complaints said there was no evidence of criminality and they submitted that there had been no representations from the police to support the review and corroborate the applicant's contention that the crime and disorder licensing objective had been undermined.

The representative for the premises advised that the premises licence holder had agreed to a number of conditions with the environmental protection team (EPT) along with removing live music from the scope of the licence. They advised that they would install air conditioning, which would be subject to planning permission, and would also provide training to staff with particular emphasis on noise issues.

The licensing sub-committee were pleased that the lines of communication between the parties were now open. However, the sub-committee had concerns regarding the extent of noise complaints made in respect of the premises. The sub-committee had serious regard to the non-compliance and number of breaches of the licensing conditions and planning permission, which could not be overlooked.

The licensing sub-committee were satisfied that if complied with, the conditions agreed between the environmental protection team and the premises licence holder would be appropriate and proportionate in addressing the licensing objectives and complaints.

The sub-committee are concerned that without certain works, such as the sound insulation of the building and the installation of the air conditioning being installed, being carried out there will be ongoing complaints of noise nuisance. The sub-committee felt that the four week suspension would give the premises licence holder an opportunity to advance the necessary works outlined in the conditions.

The licensing sub-committee felt that this decision was appropriate and proportionate in order to address the licensing objectives.

3 **Appeal rights**

This decision is open to appeal by either:

- a) The applicant for the review
- b) The premises licence holder
- c) Any other person who made relevant representations in relation to the application

Such appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the magistrates' court for the area within the period of 21 days beginning with the day on which the appellant was notified by this licensing authority of the decision.

This decision does not have effect until either:

- a) The end of the period for appealing against this decision
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

Issued by the Constitutional Team on behalf of the Director of Legal Services

Date: 23 July 2015